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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

TOTALLYHER MEDIA, LLC,

Plaintiff,

vs.

BWP MEDIA USA INC.,

Defendant.

Case No. 2:13-cv-08379-AB-PLAx

Hon. André Birotte Jr.

**[PROPOSED] JUDGMENT**

Date: March 23, 2015

Time: 10:00 a.m.

Courtroom: 4

Action Filed: December 12, 2013

Trial Date: June 2, 2015

1           The Motion for Summary Judgment of Plaintiff and Counter-Defendant  
2 Totally Her Media, LLC (“TotallyHer”) came on for a hearing on March 23, 2015,  
3 at 10:00 a.m., in the above-captioned Court, the Honorable André Birotte Jr.  
4 presiding. Having considered the Memorandum of Points and Authorities, the  
5 Separate Statement of Uncontroverted Facts and Conclusions of Law, all papers  
6 submitted by the parties concerning the motion for summary judgment, and the  
7 pleadings and papers on file in this action,

8           **IT IS ORDERED, ADJUDGED AND DECREED:**

- 9           1.       TotallyHer’s motion for summary judgment is GRANTED as set forth  
10           in the Court’s Order dated March 24, 2015.
- 11           2.       TotallyHer is entitled to safe harbor protection under 17 U.S.C.  
12           § 512(d) for the alleged infringement of Defendant BWP Media Inc.’s  
13           (“BWP”) alleged rights under the Copyright Act and is not liable for  
14           monetary relief because:
  - 15           (a)      TotallyHer is a service provider within the meaning of 17 U.S.C.  
16           § 512;
  - 17           (b)      TotallyHer satisfies all of the conditions for eligibility for safe  
18           harbor protection under 17 U.S.C. § 512(i);
  - 19           (c)      TotallyHer did not have actual knowledge and was not aware of  
20           facts or circumstances from which the alleged infringing activity  
21           was apparent;
  - 22           (d)      TotallyHer acted expeditiously to remove or disable access to the  
23           allegedly infringing images upon obtaining such knowledge;
  - 24           (e)      TotallyHer does not receive a financial benefit directly  
25           attributable to the infringing activity; and
  - 26           (f)      upon notification of claimed infringement as described in 17  
27           U.S.C. § 512(c)(3)(A)(iii), TotallyHer responds expeditiously to

1 remove or disable access to the material that is claimed to be  
2 infringing or to be the subject of infringing activity.

- 3 3. TotallyHer is not liable on BWP's counterclaims for direct or vicarious  
4 copyright infringement.  
5 4. BWP's requests for injunctive relief, statutory damages, actual  
6 damages, disgorgement, attorneys' fees, and costs are denied.  
7 5. BWP's counterclaims are dismissed with prejudice.  
8 6. Judgment is hereby entered in favor of TotallyHer and against BWP on  
9 all of TotallyHer's claims and BWP's counterclaims.  
10 7. As the prevailing party, TotallyHer is entitled to costs pursuant to  
11 F.R.Civ.P. 54(d).



12 Dated: April 7, 2015

13 Honorable André Birotte Jr.  
14 U.S. District Court Judge

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